

RajanPetitioner

Versus

State of Haryana ...Respondent

2) CRM-M-24443-2023

YogeshPetitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vimal Kumar Gupta, Advocate
for the petitioner (in CRM-M-18397-2023).

Mr. Anurag Singh Tagra, Advocate
for the petitioner (in CRM-M-24443-2023).

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

Both the above mentioned petitions have arisen out of the same FIR, therefore, both are being heard together and decided vide common order, however, the facts are borrowed from CRM-M-18397-2023.

The present petitions have been filed under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No.0214 dated 08.09.2022 under Sections 323/325/307/506/34 of IPC registered at Police Station Radaur, District Yamuna Nagar.

The present FIR was lodged on the statement made by the

complainant-Mewa Devi on the allegations that on 07.09.2023, the petitioners along with Deepak and two other persons have attacked her son, namely, Vikram at about 04:50 P.M. All the aforesaid persons came there on motorcycle in a preplanned manner duly armed with *gandasi*, iron rods etc. and attacked her son with their respective weapons. The son of the complainant raised hue and cry which attracted Sanju son of Chowkidar and other neighbours. On seeing the neighbours, all the assailants fled away from the spot on their motorcycles and the complainant found her son in unconscious condition from where, he was shifted to Civil Hospital Radaur and, thereafter, referred to Civil Hospital, Yamuna Nagar.

Learned counsel for the petitioners *inter alia* contend that the petitioners-Rajan and Yogesh are behind the bars since 21.01.2023 and 08.12.2022, respectively. The trial of the case is progressing at the snail's pace. Moreover, the complainant as well as the injured/victim-Vikram and the eyewitness have appeared before the learned trial Court and they had not supported the case of the prosecution. All the material witnesses have been declared hostile by the learned Public Prosecutor. The petitioners are having clean antecedents and not involved in any other case.

Per contra, the learned State counsel opposes the grant of regular bail to the petitioners on the ground that apart from the evidence of the complainant and injured/victim, there is sufficient material on record to prove the complicity of the petitioners in the alleged attack.

A two Judge Bench of Hon'ble Supreme Court in '***Satender Kumar Antil v. CBI***' (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

“6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

Having heard learned counsel for the parties and after perusing the records of the case with their assistance, it transpires that the petitioners-Rajan and Yogesh are behind the bars since 21.01.2023 and 08.12.2022, respectively. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. The trial of the case has not made much progress as only 09 out of 17 prosecution witnesses have been examined so far. The culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioners.

Keeping in view the facts and circumstances of the case, the fact that the petitioners are not involved in any other case and the likelihood of trial being prolonged, the present petitions are allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the

petitioners-Rajan and Yogesh are ordered to be released on regular bail during trial on their furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)
JUDGE

10.01.2024
Neha

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No